



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

Timothy A. Chuter

Atty. Docket No.: PA-5047-CIP2

Serial No.: 07/959,758

Group Art Unit: 3308

Filing Date: October 21, 1992

Examiner: D. Brittingham

Title: EXPANDABLE TRANSLUMINAL GRAFT PROSTHESIS FOR REPAIR
OF ANEURYSM AND METHOD OF IMPLANTING

#10/Election

COMMISSIONER OF PATENTS AND TRADEMARKS
WASHINGTON, D.C. 20231

SIR:

RESPONSE TO ELECTION/RESTRICTION REQUIREMENT

In response to the Election/Restriction Requirement under 35 U.S.C. § 121 in the Office action of September 24, 1993, applicant elects with traverse claims 1-9, 12-18, and 20, drawn to a transluminal arrangement, and further elects the species of claims 1-9.

Applicant traverses the restriction of Group I and Group II in that claims 10 and 11 of Group II are dependent on the transluminal arrangement of independent claim 1 of Group I. Dependent claims 10 and 11 contain each and every limitation of independent claim 1 and further include a plurality of method steps as indicated. The Examiner's reasons for indicating that the inventions of Group I and II claims are distinct may have merit should claims 10 and 11 have been directed to an independent method. However, dependent claims 10 and 11 are still directed to the transluminal arrangement of independent claim 1, not an independent method. The inclusion of method steps in an apparatus claim to further limit the apparatus claim is suggested and permitted by the MPEP.

Similarly, the transluminal arrangement of claim 19 further including method steps is dependent on independent apparatus claim 12. Therefore, the invention of Groups I and II

are not distinct as indicated by the Examiner, and it is requested that the restriction requirement be withdrawn.

Applicant submits that independent apparatus claim 1 is generic to apparatus claims 12 and 20. All of the limitations of independent apparatus claim 1, such as the main and first container means along with the retainer means, are identically included in independent apparatus claims 12 and 20. In addition, independent apparatus claims 12 and 20 include further limitations to the basic limitations of independent claim 1. As a result, independent apparatus claims 12 and 20 are claims of narrower scope than that of independent claim 1.

The examination and consideration of this application is respectfully requested.

Although the foregoing discussion is believed to be dispositive of the issues in this case, applicant's attorney requests a telephone interview with the Examiner to further discuss any unresolved issues remaining after the Examiner's consideration of this restriction requirement.

Respectfully submitted,

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By


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Date:

Oct. 25, 1993